

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**July 12, 2004**

**IN RE:**

**PETITION OF CHATTANOOGA GAS COMPANY  
FOR APPROVAL OF ADJUSTMENT OF ITS  
RATES AND CHARGES AND REVISED TARIFF**

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**DOCKET NO.  
04-00034**

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**ORDER GRANTING, IN PART, AND DENYING, IN PART,  
CONSUMER ADVOCATE'S MOTION FOR LEAVE TO SERVE  
ADDITIONAL DISCOVERY REQUESTS**

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This matter was before the Hearing Officer for a Status Conference held on April 19, 2004. During that Status Conference the Petitioner, Chattanooga Gas Company ("Chattanooga" or the "Company") argued that the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") had served discovery requests on the Company in advance of receiving specific permission from the Hearing Officer and that the number of discovery requests exceeded the amount prescribed in TRA Rule 1220-1-2-.11(5)(a). Counsel for Chattanooga and for the Consumer Advocate argued their respective positions regarding the timing and number of discovery requests served by the Consumer Advocate. Thereafter, it was agreed that the Consumer Advocate would file a motion seeking permission to propound discovery requests in excess of forty and Chattanooga would respond to such a motion.

Because the Tennessee Regulatory Authority (“TRA”) had already issued a large number of data requests and the Company had filed responses, the Hearing Officer asked the Consumer Advocate to review its additional requests and eliminate those requests seeking information that had already been obtained by the TRA through data requests to the Company.

The Consumer Advocate filed its *Motion for Leave to Serve Additional Discovery Request* (“*Motion*”) on April 23, 2004. In its *Motion* the Consumer Advocate did not state that it had eliminated redundant discover requests. On April 30, 2004, Chattanooga filed its Response to the Consumer Advocate’s *Motion* stating that the Consumer Advocate “may be attempting to abuse the discovery process by issuing excessive data requests”<sup>1</sup> and asking that the *Motion* be denied.

In a Reply filed by the Consumer Advocate on May 7, 2004, the additional discovery requests were enumerated and the relevance of each was asserted in detail. The Consumer Advocate did not state whether it had eliminated any requests that were duplicative to TRA data requests. During the May 10, 2004 Status Conference, the Consumer Advocate again informed the Hearing Officer that it was engaged in the process of eliminating potentially duplicative requests but had not completed that process.

TRA Rule 1220-1-2-.11(5)(a) provides:

No party shall serve on any other party more than forty (40) discovery requests including subparts without first having obtained leave of the Authority or a Hearing Officer. Any motion seeking permission to serve more than forty (40) discovery requests shall set forth the additional requests. The motion shall be accompanied by a memorandum establishing

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<sup>1</sup> Response of Chattanooga Gas Company to the Consumer Advocate and Protection Division’s Motion for Leave to Serve Additional Data Request, p 4 (April 30, 2004).

good cause for the service of additional interrogatories or requests for production. If a party is served with more than forty (40) discovery requests without an order authorizing the same, such party need only respond to the first forty (40) requests.

In its Reply filed on May 7, 2004, the Consumer Advocate sets forth "good cause" for seeking the information that would be provided in response to the additional requests. Nevertheless, the absence of being notified by the Consumer Advocate that it has reduced the number of its discovery requests because of duplication, the Hearing Officer has conducted his own review and made the following determination as to which discovery requests seek the same information already provided to the TRA by the Company.

The Hearing Officer hereby grants the Consumer Advocate's *Motion*, in part, with the exception of those requests which in the opinion of the Hearing Officer are duplicative of the TRA's data requests. The following sets forth the Hearing Officer's determination in this regard:

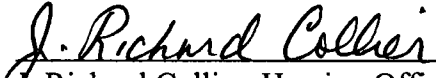
Discovery Request Numbers 4(F), 4(H), 4(J), 4(K), 5(A), 6(C), 8, 9, 10, 12, 13, 14, 15, 20 21, 22, 23, 24, 26, 33, 34, 35 and 36 are not duplicative and will be allowed.

Discovery Request Numbers 1, 2, 3, 4(A-E), 4(G), 4(I), 4(L-O), 5(B-E), 6(A), 6(B), 6(D), 6(E), 11, 16, 17, 18, 19, 27, 28, 29, 30, 31 and 32 appear to be duplicative of TRA data requests and information already provided by the Company and therefore, will not be allowed.

Discovery Request Number 25 is not allowed because of its questionable relevancy to this proceeding.

**IT IS THEREFORE ORDERED THAT:**

1. The Consumer Advocate's *Motion for Leave to Serve Additional Discovery Request* is granted in part and denied in part.
2. The Consumer Advocate is allowed to propound discovery requests in excess of the number prescribed in TRA Rule 1220-1-2-.11(5)(a), the specific allowable requests being set forth in this Order.
3. The remaining discovery requests, as set forth in this Order, are not allowed.
4. Chattanooga Gas Company shall have until **4:00 p.m. on Monday, July 19, 2004** to serve answers to the allowable discovery requests set forth above. A copy of the Company's responses shall be filed with the Authority and served on other parties to this action on the date of service to the Consumer Advocate.

  
J. Richard Collier, Hearing Officer